

1 Effective Death Penalty Act of 1996"). Section 2244(b) requires that
2 a petitioner seeking to file a "second or successive" habeas petition
3 first obtain authorization from the Court of Appeals. See Burton v.
4 Stewart, 549 U.S. 147, 157 (2007) (where petitioner did not receive
5 authorization from Court of Appeals before filing second or successive
6 petition, "the District Court was without jurisdiction to entertain
7 [the petition]"); Barapind v. Reno, 225 F.3d 1100, 1111 (9th Cir.
8 2000) ("the prior-appellate-review mechanism set forth in § 2244(b)
9 requires the permission of the court of appeals before 'a second or
10 successive habeas application under § 2254' may be commenced"). A
11 petition need not be repetitive to be "second or successive," within
12 the meaning of 28 U.S.C. section 2244(b). See, e.g., Thompson v.
13 Calderon, 151 F.3d 918, 920-21 (9th Cir.), cert. denied, 524 U.S. 965
14 (1998); Calbert v. Marshall, 2008 WL 649798, at *2-4 (C.D. Cal.
15 Mar. 6, 2008). Petitioner evidently has not yet obtained
16 authorization from the Ninth Circuit Court of Appeals.¹ Consequently,
17 this Court cannot entertain the present Petition. See Burton v.
18 Stewart, 549 U.S. at 157; Remsen v. Att'y Gen. of Calif., 471 Fed.
19 App'x 571, 571 (9th Cir. 2012) (if a petitioner fails to obtain
20 authorization from the Court of Appeals to file a second or successive
21 petition, "the district court lacks jurisdiction to consider the
22 petition and should dismiss it.") (citation omitted).

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25 ¹ The Court takes judicial notice of the docket of the
26 United States Court of Appeals for the Ninth Circuit, available
27 on the PACER database. See Mir v. Little Company of Mary Hosp.,
28 844 F.2d 646, 649 (9th Cir. 1988) (court may take judicial notice
of court records). The Ninth Circuit's docket does not show that
any individual with Petitioner's name has obtained any order from
the Ninth Circuit authorizing the filing of a second or
successive habeas petition in this Court.

1 For all of the foregoing reasons, the Petition is denied and
2 dismissed without prejudice.

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4 LET JUDGMENT BE ENTERED ACCORDINGLY.

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6 DATED: September 21, 2022.

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8 /s/
9 FERNANDO M. OLGUIN
10 UNITED STATES DISTRICT JUDGE

11 PRESENTED this 21st day of
12 September, 2022, by:

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14 /s/
15 CHARLES F. EICK
16 UNITED STATES MAGISTRATE JUDGE
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